

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ARTHUR JAMES GRIFFIN, JR.,

Plaintiff,

vs.

CITY OF OMAHA POLICE-DEPT., and
MICHAEL MYERS, Director/Dept. Corr.,

Defendants.

8:22CV67

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. On February 24, 2022, the court ordered Plaintiff to show cause why he is entitled to proceed in forma pauperis in this action. (Filing 6.) The court identified three cases that were brought by Plaintiff that may have been dismissed because they were frivolous, malicious, or failed to state a claim. The three cases identified by the court were *Griffin v. Newton, et al.*, Filings 7 & 8, 8:09CV400 (D. Neb.) (finding Plaintiff's complaint failed to state a claim for relief and dismissing case on March 18, 2010, after Plaintiff failed to amend complaint); *Griffin v. Herrick, et al.*, Filings 15 & 20, 8:18CV316 (D. Neb.) (finding Plaintiff's complaint failed to state a claim for relief and dismissing case on October 24, 2018, after Plaintiff failed to amend complaint); and *Griffin v. State of Nebraska, et al.*, Filings 13 & 18, 8:18CV317 (D. Neb.) (finding Plaintiff's complaint failed to state a claim for relief and dismissing case on October 24, 2018, after Plaintiff failed to amend complaint). The Prison Litigation Reform Act ("PLRA") prevents a prisoner with "three strikes" from proceeding IFP unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

To date, Plaintiff has not filed a response to the court's order to show cause nor has he paid the court's \$402.00 filing and administrative fees despite the court's warning that failure to take either action would result in dismissal of this case. Thus, Plaintiff has failed to comply with the court's orders and failed to show cause why the

three cases identified above should not be considered “strikes” pursuant to 28 U.S.C. § 1915(g).

As the court has determined that three federal court cases brought by Plaintiff, while a prisoner, were dismissed for failure to state a claim, the court must consider whether Plaintiff has demonstrated he “is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The court has considered Plaintiff’s Complaint (Filing 1) and finds his allegations fail to establish a threat of serious injury sufficient to overcome the “three strikes” bar. Plaintiff’s Complaint alleges “malice” against the Omaha Police with no further details and references three sections of the Douglas County Department of Corrections inmate handbook regarding earned release credit and housing. (Filing 1.) Plaintiff’s pleadings fail to suggest any threat of serious physical injury to Plaintiff. Accordingly,

IT IS ORDERED that:

1. Plaintiff’s Motion for Leave to Proceed in Forma Pauperis (Filing 2) is denied.
2. This case is dismissed without prejudice and a separate judgment will be entered in accordance with this Memorandum and Order.
3. Any notice of appeal filed by Plaintiff must be accompanied by the \$505.00 appellate filing fee because Plaintiff will not be allowed to proceed in forma pauperis on appeal.

DATED this 1st day of April, 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge